MONTANA LEGISLATIVE HISTORY

Chapter 647 19 87

Bill H 583 S _____ Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	Feb 13	✓ C	Hearing Date(s)	Mar 20	✓ C
	Feb 20	✓ C		Mar 27	✓ C
		C			C
		C			C
Date Out	Feb 20	✓ C		Mar 27	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HOUSE BILL NO. 583

INTRODUCED BY DONALDSON, QUILICI

BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

IN THE HOUSE

FEBRUARY 3, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
FEBRUARY 23, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 24, 1987	PRINTING REPORT.
MARCH 2, 1987	SECOND READING, DO PASS.
MARCH 3, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 89; NOES, 9.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 4, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
MARCH 27, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 31, 1987	SECOND READING, CONCURRED IN.
APRIL 1, 1987	THIRD READING, CONCURRED IN. AYES, 44; NOES, 4.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1987 — RECEIVED FROM SENATE.

ON MOTION, CONSIDERATION PASSED FOR THE DAY.

APRIL 10, 1987 — SECOND READING, AMENDMENTS NOT CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 14, 1987 — ON MOTION, FREE CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 16, 1987 — FREE CONFERENCE COMMITTEE REPORTED.

APRIL 20, 1987 — SECOND READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.

APRIL 21, 1987 — THIRD READING, FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 21, 1987 — FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 21, 1987 — SENT TO ENROLLING.

House BILL NO. 583

INTRODUCED BY Tom Nelson Sunkin

BY REQUEST OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO CONTINUE FUNDING OF THE DEPARTMENT OF PUBLIC SERVICE REGULATION BY FEES LEVIED ON REGULATED COMPANIES; TO EXCLUDE FROM TAX CERTAIN SALES FOR RESALE; AMENDING SECTION 7, CHAPTER 32, LAWS OF 1986, AND SECTIONS 69-1-223, 69-1-402, AND 69-1-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7, Chapter 32, Laws of 1986, is amended to read:

"Section 7. Effective date ~~---termination--date~~. This act is effective July 1, 1986. ~~This act terminates July 1, 1987.~~"

Section 2. Section 69-1-223, MCA, is amended to read:

"69-1-223. Funding of office of consumer counsel. (1) There is an account in the state special revenue fund to which all fees collected hereunder shall be deposited and from which all appropriations to the office of the consumer counsel shall be paid. An appropriation to the office of the consumer counsel may consist of a base appropriation for regular operating expenses and a contingency appropriation for expenses due to an unanticipated caseload.

(2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall:

(a) within 90 days after the close of each calendar quarter, file with the department of public service regulation and the department of revenue a statement, in such form as the commission may determine, showing the gross operating revenue from all activities regulated by the commission within the state for that calendar quarter of operation or portion thereof, separately stating gross revenues from sales to other regulated companies for resale; and

(b) at that time pay to the department of revenue a fee based on a percentage of the gross operating revenue reported, as determined by the department of revenue under 69-1-224.

(3) The amount of money which may be raised by the fee on the regulated companies during a fiscal year may not be increased from the amount appropriated, including both base and contingency appropriations, by the legislature for that fiscal year. Any additional money required for operation of the office of the consumer counsel must be obtained from other sources in a manner authorized by the legislature."

Section 3. Section 69-1-402, MCA, is amended to read:

"69-1-402. (Temporary) Funding of the department of

public service regulation. (1) There is an account in the state special revenue fund to which all fees collected under this section must be deposited and from which all appropriations to the department must be paid. An appropriation to the department may consist of a base appropriation for regular operating expenses and a contingency appropriation for expenses due to an unanticipated caseload.

(2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall, within 90 days after the close of each calendar quarter, pay to the department of revenue a fee based on a percentage of gross operating revenue reported pursuant to 69-1-223(2)(a), excluding gross revenues from sales to other regulated companies for resale, as determined by the department of revenue under 69-1-403.

(3) The amount of money that may be raised by the fee on the regulated companies during a fiscal year may not be increased from the amount appropriated to the department by the legislature for that fiscal year, including both base and contingency appropriations. Any additional money required for operation of the department must be obtained from other sources in a manner authorized by the legislature. (Effective July 1, 1986, and terminates July 1, 1987--sec. 7, Ch. 32, Sp. L. June 1986.)"

Section 4. Section 69-1-403, MCA, is amended to read:

"69-1-403. (Temporary) Determination and collection of fee. (1) The fee provided for in 69-1-402 to be paid by regulated companies must be determined in the manner set forth in 69-1-224 for determining the consumer counsel fee, except that gross revenues from sales to other regulated companies for resale must be excluded from the determination of the total gross operating revenue pursuant to 69-1-224.

(2) The department of revenue shall give notice by mail to each regulated company of the percentage determined pursuant to 69-1-224 and this section to be applied to gross operating revenues reported under 69-1-223, excluding gross revenues from sales to other regulated companies for resale, to determine the amount of the fee to be paid in the first year of the appropriation.

~~(2)~~(3) The fee provided for in 69-1-402 may be computed and collected in the manner provided in 69-1-225 through 69-1-227.

~~(3)~~(4) All fees paid by a regulated company pursuant to this section are immediately recoverable by the regulated company in its rates and charges. Within 30 days after the issuance by the department of revenue of notices required by 69-1-224(1) and (2), the public service commission shall by separate order authorize each regulated company to fully recover in its rates and charges, on an annual basis, the

fees levied by this part. (Effective July 1, 1986, and terminates July 1, 1987--sec. 7, Ch. 32, Sp. L. June 1986.)"

NEW SECTION. Section 5. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 6. Effective date. This act is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB583 , as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act to continue funding of the Department of Public Service Regulation by fees levied on regulated companies; to exclude from tax certain sales for resale; amending Section 7, Chapter 32, Laws of 1986, and Sections 69-1-223, 69-1-402, and 69-1-403, MCA; and providing an immediate effective date.

ASSUMPTIONS:
1. The 1988-89 Biennium appropriation as recommended by OBPP.
2. Revenues collected during 1988-89 Biennium equal the appropriation.

FISCAL IMPACT:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures:	$ 1,698,724	$ 1,698,724	$ 0	$ 1,676,207	$ 1,676,207	$ 0
Funding:						
General Fund	$ 1,644,164	$ 0	($1,644,164)	$ 1,618,705	$ 0	($1,618,705)
State Special Revenue Fund	$ 0	$ 1,644,164	$1,644,164	$ 0	$ 1,618,705	$1,618,705
Federal and Other Special Revenue	$ 39,560	$ 39,560	$ 0	$ 42,502	$ 42,502	$ 0
Proprietary Fund	$ 15,000	$ 15,000	$ 0	$ 15,000	$ 15,000	$ 0
Revenues:						
General Fund	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
State Special Revenue Fund	$ 0	$ 1,644,164	$1,644,164	$ 0	$ 1,618,705	$1,618,705
Federal and Other Special Revenue	$ 39,560	$ 39,560	$ 0	$ 42,502	$ 42,502	$ 0
Proprietary Fund	$ 15,000	$ 15,000	$ 0	$ 15,000	$ 15,000	$ 0
TOTAL	$ 54,560	$ 1,698,724	$1,644,164	$ 57,502	$ 1,676,207	$1,618,705

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:
Municipal utilities will pay total fees of approximately $13,627 in each fiscal year. (.0006 x annual revenues of $22,710,981)

David L. Hunter DATE 2/9/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Gene Donaldson DATE Feb 10 87
GENE DONALDSON, PRIMARY SPONSOR

Fiscal Note for HB583, as introduced.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:
The collection of revenue under this proposal is not assured. The proposed legislation would raise issues regarding the calculation of deductions from the base of the tax. To resolve these issues the courts may require public input through the rule making process. The provision in the proposed law, extending the rule making authority of the Department of Revenue has no effect because the Department currently has no rule making authority for this fee. Because the Department has no rule making authority for the public service fee, a court could hold the collection of the fee to be invalid.

4/22 TRANSMITTED TO GOVERNOR
4/27 SIGNED BY GOVERNOR
CHAPTER NUMBER 614 EFFECTIVE DATE: 7/01/87

HB 582 INTRODUCED BY DARKO, ET AL.
ADD A MEMBER TO THE TEACHERS' RETIREMENT BOARD

2/03 INTRODUCED
2/03 REFERRED TO STATE ADMINISTRATION
2/03 FISCAL NOTE REQUESTED
2/07 FISCAL NOTE RECEIVED
2/11 HEARING
2/12 COMMITTEE REPORT--BILL NOT PASSED
2/13 ADVERSE COMMITTEE REPORT ADOPTED 65 18

HB 583 INTRODUCED BY DONALDSON, ET AL.
CONTINUE TO FUND PUBLIC SERVICE COMMISSION BY UTILITY FEES
BY REQUEST OF DEPARTMENT OF PUBLIC SERVICE REGULATION

2/03 INTRODUCED
2/03 REFERRED TO TAXATION
2/03 FISCAL NOTE REQUESTED
2/09 FISCAL NOTE RECEIVED
2/13 HEARING
2/23 COMMITTEE REPORT--BILL PASSED AS AMENDED
3/02 2ND READING PASSED 81 10
3/03 3RD READING PASSED 89 9

TRANSMITTED TO SENATE
3/04 REFERRED TO TAXATION
3/20 HEARING
3/27 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
3/31 2ND READING CONCURRED 50 0
4/01 3RD READING CONCURRED 44 4

RETURNED TO HOUSE WITH AMENDMENTS
4/10 2ND READING AMENDMENTS NOT CONCURRED 83 3
4/11 FREE CONFERENCE COMMITTEE APPOINTED
4/16 FREE CONFERENCE COMMITTEE REPORT
4/20 2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED 62 35
4/21 3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED 76 23

SENATE
4/14 FREE CONFERENCE COMMITTEE APPOINTED
4/17 FREE CONFERENCE COMMITTEE REPORT
4/20 2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED 49 [illegible]
4/21 3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED 49 [illegible]

4/23 SIGNED BY SPEAKER
4/24 SIGNED BY PRESIDENT

4/24 TRANSMITTED TO GOVERNOR
5/11 SIGNED BY GOVERNOR
CHAPTER NUMBER 647 EFFECTIVE DATE: 7/01/87

HB 584 INTRODUCED BY BARDANOUVE, ET AL.
REVISE PROCEDURE FOR APPROVAL OF INITIATIVE PETITION

MINUTES OF THE MEETING
TAXATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 13, 1987

The meeting of the Taxation Committee was called to order by Chairman Ramirez on February 13, 1987, at 8 a.m. in Room 312B of the State Capitol.

ROLL CALL: All members were present. Also present was Dave Bohyer, Researcher, Legislative Council.

CONSIDERATION OF HOUSE BILL NO. 583: Rep. Gene Donaldson, House District #43, sponsor of HB 583, said the bill would continue application of fees for the Public Service Commission (PSC), from utility fees, as present legislation is scheduled to sunset at the end of the current biennium.

Rep. Donaldson said the legislation would result in a $1.6 million cost savings to the general fund, and suggested the funds be deposited to the PSC and be funded by the general fund. He told the Committee he had great concerns about earmarking, and said the Legislature is not providing the scrutiny that general funds are due. Rep. Donaldson explained that special revenue accounts clutter the appropriations process a great deal.

Rep. Donaldson advised he would have an amendment later this date, which would be somewhat complicated in that it is tied to the Consumer Council. He commented that if it won't work, the bill be sunset in two years.

PROPONENTS OF HOUSE BILL NO. 583: Howard Ellis, District 5 member of the PSC, stated he was in full support of the bill, as it is proposed to be amended. He commented this is an acceptable public policy and is standard procedure in all but 9 states.

John Lahr, Montana Power Company, stated his support of the bill, and said HB 45, passed during the June, 1986, special session, instituted use of fees for this purpose.

John Alke, Montana-Dakota Utilities, stated his support of the bill, with the proposed amendment.

Gene Phillips, Pacific Power and Light and Northwest Power, urged the Committee to support the bill.

John Allen, Great Falls Gas Company, stated his support of the bill and the proposed amendment to separate gross revenue from sales to utilities. HE said it is appropriate that current levels of taxation for communities remain the same.

Tom McGree, Mountain Bell, said he supported the bill, with the proposed amendment.

OPPONENTS OF HOUSE BILL NO. 583: There were no opponents of the bill.

TECHNICAL COMMENTS ON HOUSE BILL NO. 583: Dan Bucks, Deputy Director, DOR, explained that the new section 5, extending rulemaking authority, is meaningless, as DOR currently has no rulemaking authority in this area. He stated it is important that the bill is effective upon passage and approval, as underlying statistics must be adjusted quarterly for tax rates, if there is a change in underlying revenue. He advised that if the bill is made retroactive, DOR may be required to recalculate taxes for the final quarter of the current FY, and an alternative is to provide for an applicability date of the FY beginning July 1, 1987.

QUESTIONS ON HOUSE BILL NO. 583: Rep. Ream asked how surplus fees from one year would be carried over to the next year. Rep. Donaldson replied he was not as concerned as Mr. Alke because DOR can make adjustments as necessary.

Rep. Ream asked why general funding was proposed. Rep. Donaldson replied that in Alabama 91% of funds are earmarked, and that he did not want Montana to have this problem. He said it is a fact that general fund agencies are looked at more closely.

Rep. Sands said the amendment doesn't sound much different from what the bill proposes now.

CLOSING ON HOUSE BILL NO. 583: Rep. Donaldson stated the bill merely provides for an automatic tax on consumers.

CONSIDERATION OF HOUSE BILL NO. 444: Rep. Jack Ramirez, House District #87, sponsor of HB 444, said the bill represents one of the most important political decisions of the session, as it would eliminate the so-called "windfall". Rep. Ramirez explained that the definition of windfall is a tax increase that occurs without a vote of the legislature, and he said the only windfall is to state government at the expense of taxpayers.

Rep. Ramirez advised that the change in federal tax law offset the expansion of the tax base by lowering tax rates. He said Montana is tied to federal tax rates, but Montana rates are not tied to federal rates, so the same rate is applied against a broader base. He commented he hoped the change would be replaced by a reduction in federal income tax, and projected a 20-23% increase in state income tax.

MINUTES OF THE MEETING
TAXATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 20, 1987

The meeting of the Taxation Committee was called to order by Chairman Ramirez on February 20, 1987, at 7:30 a.m. in Room 312B of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Ream, who was excused. Also present was Greg Petesch, Director of Legal Services, Legislative Council.

DISPOSITION OF HOUSE BILL NO. 608: Rep. Keenan made a motion that HB 608 be TABLED at the request of the bill's sponsor. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 193: Rep. Keenan made a motion that HB 193 DO PASS. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 583: Rep. Raney made a motion that HB 583 DO PASS.

Rep. Hanson made a motion that Rep. Donaldson's amendments be approved. The motion CARRIED unanimously. (Exhibit #1a)

Rep. Sands made a motion to amend the bill to sunset in two years. The motion CARRIED unanimously.

Greg Petesch advised that other rules in the legislative process would grant the PSC rulemaking authority.

Rep. Gilbert made a motion to delete the extension of rulemaking authority. The motion CARRIED unanimously.

Rep. Raney made a motion that HB 583 DO PASS AS AMENDED. The motion CARRIED with all members voting aye except Rep. Sands, who voted no.

DISPOSITION OF HOUSE BILL NO. 666: Rep. Patterson made a motion that HB 666 DO PASS. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 678: Rep. Sands made a motion that HB 678 DO PASS.

Chairman Ramirez stated 10% is a large penalty for delinquent taxes of more than $10,000.

Rep. Keenan advised that most delinquent taxpayers are large property owners of income-producing property.

PROPOSED AMENDMENTS FOR HB583
(Representative Donaldson)

EXHIBIT #1a
DATE 2-20-87
HB 583

1. Title, line 8.
Following: "RESALE;"
Insert: "TO PROVIDE FOR THE DISTRIBUTION OF THE FEES THROUGH THE GENERAL FUND;"

2. Page 2.
Following: line 23.
Insert: "Section 3. Section 69-1-224, MCA, is amended to read:
'69-1-224. Determination of fee. (1) Within 30 days following enactment of the legislative appropriation for the office of the consumer counsel, the department of revenue shall:

(a) determine the total gross operating revenue generated by all regulated activities within this state for all regulated companies for the previous fiscal year;

(b) compute the percentage, subject to revision as provided in subsection (3), of the amount determined in subsection (1) (a) which will produce an amount equal to the base appropriation to the office of the consumer counsel for the first year of the appropriation, except that no regulated company owned and operated by any municipal corporation within this state shall be required to pay a sum in excess of .06 of 1% of its gross operating revenue; and

(c) give notice by mail to each regulated company of the percentage determined in subsections (1)(a) and (b) to be applied to the gross operating revenue reported under 69-1-223(2) to determine the amount of the fee to be paid in the first year of the appropriation.

(2) On or before May 30 of the first year of the biennium, the department of revenue shall repeat the steps required by subsection (1) and compute the percentage multiplier for the second year, giving notice to the regulated companies.

(3) (a) The department of revenue ~~may~~ shall adjust the percentage multiplier quarterly if the department considers a change necessary to meet or to not exceed the amount to be raised by the fee because of:

(i) fluctuations in the actual gross operating revenue subject to the fee; or

(ii) submission and approval of a budget amendment authorizing the spending of money from a contingency appropriation included in the appropriation measure for the office of the consumer counsel and authorized to be raised by means of the fee.

(b) Adjustments of the percentage multiplier are subject to the exception provided in subsection (1) (b) for municipally owned and operated regulated companies.

(c) Regulated companies must be given at least 30 days' notice of any change in the percentage multiplier.

(4) In the event the fee charged in one year is in excess of the amount actually expended in that year, the excess shall be deducted from the amount required to be raised by the fee for the next year before the determination required by subsection (1) is made. Money ~~in-the-account~~ remaining unspent at the close of a fiscal year shall be used to reduce the percentage calculated in 69-1-224 in the subsequent fiscal year.'"

3. Page 2, line 24.
Strike: "Section 3."
Renumber: subsequent sections

4. Page 3, line 1.
Following: "(1)"
Strike: "There is an account in the state special revenue fund to which all"
Insert: "All"

5. Page 3, line 3.
Following: "deposited"
Strike: "and from which"
Insert: "in the general fund."
Following: "which"
Strike: "all"
Insert: "All"

6. Page 3, line 4.
Following: "paid"
Insert: "from the general fund."

7. Page 5, line 9.
Following: "effective"
Strike: "on passage and approval."
Insert: "July 1, 1987."

business in Montana. He asked how they would be affected by Section 7.

John LaFaver said he does not know exactly what their financial situation is. They could allocate their expenses in Montana and allocate their income away. That is a way of eliminating their tax bill in Montana.

Senator Mazurek referred to George Anderson's comment in his testimony that he did not believe the fiscal note was correct. He asked him to expand or to furnish the committee with his idea on what is correct.

George Anderson said we have never felt that the fiscal note that came out on this particular tax was correct but we have no idea on how it should be computed. He is not sure the Department has the data base to make those computations.

Senator Halligan asked if there was some fiscal impact that could be agreed on, some negative revenue that as a result of this other individuals will make that up.

George Anderson said there may be a negative impact, he has no idea. Whatever that impact is, even if it is what the Department is saying, it would be worth it. Without getting rid of this unitary method, we don't stand a chance.

Senator Brown said to George Anderson you say you can guarantee more foreign investment from these big corporations. It seems to him that the bill deducts money to be made in Montana with a $3.8 million impact. Businessmen are in business to make money. Isn't the affect of this tax the real governing factor.

George Anderson said as far as foreign parent companies are concerned they do not want the state of Montana to be able to get at their income from out of Montana, that they did not make in Montana. Given a choice of investments, they would not invest in Montana over another state.

Representative Gilbert closed by stating this is a pro-business bill. This bill is designed to try to attract business to the state of Montana. What we are saying is give us fairness in taxes and we will give you jobs. We are losing jobs because we have a bad business climate.

CONSIDERATION OF HB 583: Representative Donaldson, House District 43, presented this bill to the committee.

What this bill does is to extend what we did in the June session, which was to fund the Public Service Commission out of fees to the utility companies and those fees are passed on to the consumers. A couple of things have changed. The original bill called for a special revenue account. In this particular bill we do not feel we need a special revenue account. They changed the bill so the money collected would be deposited in the general fund. He believes the scrutinized budget should be the general fund. The language on page 2, lines 13-14 is new language dealing with gross revenues from sales to other regulated companies for resale. He said the Department has some amendments dealing with an immediate effective date.

Dan Bucks, Deputy Director, Department of Revenue, gave technical comments concerning this bill. He furnished the committee with proposed amendments to the bill dealing with rulemaking authority for the Department and an applicability date of July 1, 1987, so that it would not apply to the current taxable period, attached as Exhibit 5. They believe that the collection of this tax will ultimately be brought into question because they do not have rulemaking authority. The law will require us to calculate a fee annually and to allow for a deduction for gross revenues from sales to regulated companies for resale. The calculation of this fee, which will ultimately allow the collection of this tax, can be found invalid. In one instance it was used as a defense in that the legislature had not granted rule making authority and the defense was you can't do what you are doing without rules.

PROPONENTS: Howard Ellis, Public Service Commission, fully supports this concept of taxing the utilities. This is the fairest of all taxes, something that is adopted public policy in most states of the country. He would suggest that the sunset in the bill be removed. If there is a problem, a bill can be brought in without guaranteeing a bill on the docket next session.

Gene Phillips, representing Pacific Power and Light Company and Northwestern Telephone Systems, supports this bill. Of the six states that Pacific Power and Light operates in, Montana was the only state that did not use this method until June of last year. This is in the best interest of the Public Service Commission for balance and stability. It provides that a better job will be done. With regard to the amendments proposed by the Department, he is opposed to the rule-making authority by the Department.

Bob Quinn, representing the Montana Power Company, gave testimony in support of this bill. Extending this method is a legitimate way to fund regulated agencies. He opposes the rulemaking amendments proposed by the Department.

John Alke, Montana Dakota Utilities Company, gave testimony in support of this bill. He has no objections to withdrawing the sunset. He is very much opposed to the rulemaking authority required by the Department of Revenue in their proposed amendments. This identical tax has been in place for 14 years without rulemaking authority. There has never been a problem.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Eck asked Dan Bucks if this process is exactly the same as for the Consumer Counsel.

Dan Bucks said there are differences. This bill now provides for a deduction from gross revenues from sales to other regulated companies for resale and that is not a clear cut matter or issue. This bill is changing the base of the tax and getting into an area where there will be controversy. If someone takes us to court, the actions will be thrown out because we did not adopt rules and public participation was not allowed.

Representative Donaldson closed.

ADJOURNMENT: The meeting adjourned at 10:15 P.M.

SENATOR GEORGE McCALLUM, Chairman

ah

AMENDMENTS TO HOUSE BILL NO. 583

THIRD READING COPY BLUE

1. Title, Line 11.
Following: "PROVIDING"
Insert: "RULEMAKING AUTHORITY; AN APPLICABILITY DATE;"

2. Page 7, line 10.
Following: line 10
Insert: "NEW SECTION. Section 6. Rulemaking authority. The department of revenue has authority to make and adopt rules as necessary to administer this act.
"NEW SECTION. Section 7. Applicability date. This act shall apply to all taxable activities after June 30, 1987."
RENUMBER THE SUBSEQUENT SECTION.

llb/90
amendhb583

SENATE TAXATION
EXHIBIT NO. 5
DATE 3-20-87
BILL NO. H.B. 583

Senator Eck said if we are going to monitor use of these vehicles, should we have laws that would apply as to what is legal and illegal.

Jim Flynn said there was a bill in the House that did not pass. This is a difficult subject and this is a very simplistic approach.

Senator Lybeck asked if he had checked out the possibility of double taxation in this bill. On his personal property list for his farm his three-wheelers are listed.

Representative Cohen said we are deleting them from the property tax, class 16 property, on page 5 of the bill.

Representative Cohen closed by stating if the committee feels additional funding is necessary for the Department of Fish, Wildlife and Parks to administer this program, he would suggest the fees be increased by $2 to cover that.

DISPOSITION OF HB 583: Senator Mazurek made a motion that HB 583 BE CONCURRED IN AS AMENDED.

Senator Neuman asked if it was his intention to let the Department collect the tax without having rulemaking authority.

Senator Mazurek said he does not anticipate any problem with that, it has worked so far.

The motion carried with no opposition.

DISPOSITION OF HB 678: Senator Mazurek made a motion that HB 678 BE NOT CONCURRED IN. The motion carried with Senators Eck, Crippen and Brown opposed.

DISPOSITION OF HB 791: Senator Neuman made a motion that HB 791 BE CONCURRED IN. The motion carried.

DISPOSITION OF HB 387: Jim Lear explained that Senator Eck wanted the bill amended as follows: 1) to strike "public hearing" on page 1, lines 12 and 13; 2) strike "as provided in subsection (8)" on page 1, lines 19 and 20; and 3) insert "(8) Within 6 months after the beginning of each biennium, the department shall consult with the revenue oversight committee and incorporate recommendations by the committee as to information to be included in the report to be submitted to the next legislature."

Senator Eck would move the amendments.

STANDING COMMITTEE REPORT

March 27 19 87

MR. PRESIDENT

We, your committee on SENATE TAXATION

having had under consideration HOUSE BILL No. 583

third reading copy (blue color)

DONALDSON (MAZUREK)

CONTINUE TO FUND PSC BY UTILITY FEES

Respectfully report as follows: That HOUSE BILL No. 583

be amended as follows:

1. Title, lines 11 and 12.
Following: "DATE" on line 11
Strike: "AND A TERMINATION DATE"

2. Page 1, lines 17 and 18.
Following: "date" on line 17
Strike: "-- TERMINATION DATE"

3. Page 1, lines 19 and 20.
Following: "1987:" on line 19
Strike: "THIS ACT TERMINATES JULY 1, 1989."

4. Page 5, lines 16 through 18.
Following: "69-1-223(2)(a)" on line 16
Strike: remainder of line 16 through "resale" on line 18

5. Page 6, line 10.
Following: "resale"
Insert: ", as calculated by the public service commission,"

6. Page 7, lines 11 through 13.
Following: "date" on line 11
Strike: "-- TERMINATION DATE"
Following: "approval." on line 12
Strike: "THIS ACT TERMINATES JULY 1, 1989."

AND AS AMENDED
BE CONCURRED IN
~~DO PASS~~

~~DO NOT PASS~~

SENATOR GEORGE McCALLUM, Chairman.